HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.10661 OF 2007

Between:

M.Lakshmi Kumari

. . .Petitioner

AND

VGTM Urban Development Authority and another

. . .Respondent s

:: ORDER ::

Counsel for the petitioner : Shri Ghanta Rama Rao

Counsel for the respondents : Smt. K.Aruna

18th June, 2007

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PER G.S.SINGHVI, CJ

The petitioner, who appears to have taken law into her own hands and constructed building in violation of the sanctioned plan and completed the same in the garb of the order of status quo passed in Writ Petition No.14094 of 2006, has again sought intervention of this Court for quashing notice-cum-order dated 10.05.2007 issued by Vice-Chairman, Vijayawada, Guntur, Tenali and Mangalagiri Urban Development Authority (for short 'the authority') for demolition of the illegal construction.

On 17.5.2007, the vacation Bench issued notice before admission and stayed the demolition of the disputed construction.

The only ground which appears to have prevailed with the vacation Bench to entertain the writ petition and pass an interim order is that appeal filed by the petitioner against a notice-cum-order dated 10.05.2007 has not been decided and yet the respondents are seeking to demolish the disputed construction.

Smt. K.Aruna, learned counsel for the respondents submitted that no appeal is maintainable against notice-cum-order dated 10.05.2007 passed by Vice-Chairman of the authority and, therefore, pendency of the appeal should not be made a ground for restraining the respondents from enforcing the provisions of law by demolishing the illegal construction made by the petitioner.

Shri P.Venugopal, who had appeared on behalf of the impleaded respondent Shri Y.Rama Rao in the previous round of litigation, made a grievance that even though action was initiated

against the petitioner on the complaint made by his client, she has deliberately omitted to implead him as party to this petition and succeeded in persuading the vacation Bench to pass interim order.

We have considered the respective submissions and perused the record. Although reply dated 12.03.2007 sent by the petitioner in response to notice dated 14.10.2005 (copy of the notice has not placed on the record of the writ petition) gives an impression that the petitioner has raised construction in violation of the sanctioned plan, we refrain from finally adjudicating on the legality or otherwise of the disputed construction and feel that ends of justice will be met by directing the appellate authority to dispose of the appeal preferred by the petitioner under Section 42(3) of the Andhra Pradesh Urban Areas Development Act, 1975 (for short 'the Act').

In the result, the writ petition is disposed of in the following terms:

1) within ten days from today, the competent authority shall pass appropriate speaking order on the appeal preferred by the petitioner against notice-cum-order dated 10.05.2007;
2) if the competent authority comes to the conclusion that the appeal is not maintainable against that notice-cum-order, then it may record so and dispose of the same;
3) if the concerned authority comes to the conclusion that the appeal is maintainable, but there is no reason to interfere with the action initiated by the competent authority under Section 42(1) of the Act, then appropriate order be passed accordingly;
4) if the appeal of the petitioner is dismissed, then she shall be free to avail appropriate legal remedy within next seven days. If the petitioner avails appropriate legal

remedy within seven days before this Court or any other competent judicial forum and if application, appeal etc. filed by her is dismissed, then the respondent shall not only be free but duty bound to give effect to notice-cum-order dated 14.10.2005.

5) Till the decision of the appeal preferred by the petitioner and next seven days, the respondent shall not demolish the disputed construction.

As a sequel to disposal of the main petition, WPMP No.13413 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

18h June, 2007

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